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CIRCULAR.

Harrisburg, 2d Mo. 7th, 1832.

PERMIT me to ask the favor of a few minutes' time to read the following exhibit. The case to which attention is asked involves extreme hardship, and threatens, if succeeded in, to prostrate the security in our laws, which in our happy country is our boast, that the laws govern and not an inhuman tyrant.

In the year 1818, '19 and '20, I embarked all my estate on the Lehigh. I associated with others in the improvement of the river Lehigh: a work that had been seven times abandoned when my Company took it in hand. We were called visionary in the extreme, because of so hopeless an undertaking, and by most deemed impracticable to accomplish; but under a confidence in our industry and faith in our laws, this great work has been prosecuted to a completion, that for capability and usefulness is not surpassed by any similar work in Pennsylvania.

But this achievement has not been without sacrifices, in person and property. To sustain it I left comfort and affluence, and invested my all. I have devoted to it 14 years of the prime of my life; yes, fourteen years of hard servitude, and all who know me know this fact.—[*See Note 1.*]

For six years past I have received no dividend, and of course no interest for my large investments in this work: the whole of which investment was made when the company were without funds, and which sustained them until public confidence was established so that new stockholders would come in.

Our Company has supported a population in and near Mauch Chunk, for a number of years, exceeding 1500 souls. The regular hands exceed 500, whose annual savings exceed \$30,000 per year, which is put out to interest, or invested in lands or in trade. Our stock is owned by citizens of several states, but principally in our own state. I believe none by foreigners. Our stock is fifty dollars per share, which is possessed by a great number of people; a considerable portion by the working class—the widow and the orphan. Our loans are also diffused. I presume 10,000 souls are this moment supported more or less by the outlays of this concern, or injured by the long suspension of dividends.—[*See Note 2.*]

It is this community that is threatened with injury and a large portion with ruin, and the laws of the land attempted to be prostrated, by appeals made at the instigation of a few coal speculators, who have not laid out in *public* work, during the course of their lives, perhaps, as much as this Company, which is threatened with ruin, regularly lays out per month. To effect their object they

bring before you the following charges against the Lehigh Coal and Navigation Company, none of which will on examination be found correct, viz:

First charge. That the Company do not progress with their improvement up the Lehigh as fast as required by law.

Second charge. That the Company have misused their charter by charging more than legal toll.

Third charge. That the Company charge for empty boats without authority of law.

Fourth charge. That the Company charges exorbitant toll.

Answer to first charge. The Company's first law was passed in March, 1818, which predicated two kinds of navigation, viz:

1st, for *descending*, at least *once in three days*; this was considered experimental.

2d, for *ascending* and descending, provided the Legislature deemed the descending navigation insufficient.

The river was divided into two grand sections. The lower grand section extended from the mouth of the river Lehigh to the mouth of Nesquehoning creek, a distance of about 48 miles. The other, or upper grand section, from the mouth of Nesquehoning to the Great Falls, being a distance of about 35 miles. The 12th section of said act provides that the lower grand section shall be begun in two years, and finished from the passage of the act, (March, 1818,) in six years, and that the upper grand section shall be commenced in seven years from the passage of the act of March, 1818, and finish the same in twenty years.

Section 15 provides, that after the expiration of the periods mentioned in the preceding sections, for the *descending* navigation, to wit: 6 years for the lower grand section and 20 years for the upper grand section, should the Legislature deem the descending navigation contemplated by the preceding sections *insufficient*, that they, the Legislature, shall give due notice, in writing, to the Company, to convert the said descending navigation into a complete slack-water navigation, and shall erect and complete at least one lock or other device, overcoming at least 6 feet fall in each and every year, in such parts as they thought proper.

Section 20 provides, that the said slack water navigation shall be begun in one year after notice given as aforesaid, and shall within *twenty years* thereafter be completed: making the *period for completing the slack-water navigation in the year 1858*.

In February, 1822, the Lehigh Company was incorporated, at which time they *surrendered two-thirds of their tolls*, and were authorized to make a slack-water navigation in the lower grand section, agreeably to their law.

The Company proceeded in the execution of their labor, to wit: In 1820 to '21, being from 2 to 3 years after the passage of their law, they had completed the *descending* navigation of the whole of their lower grand section of 48 miles, being *less than half the time allowed by law for this part of their work*, and by means of this early finishing, they were enabled, and had the honour to introduce anthracite coal into Philadelphia, and taking the first regular sup-

ply there of what has since become the greatest staple of Pennsylvania.

In 1827, the Company began their ascending navigation, and by June, 1829, they had finished the same for the distance of 46 miles, being *nine years before* the time limited by law for its completion.

The *descending* navigation of the upper grand section, which was to be begun in 7 years from 1818, and finished in 20 years, was begun in 1822, and in 1823 fourteen miles of it was finished, and since then the public have had the use of it *free of toll*, and passed down it 3 to 5,000,000 feet of lumber per year. So that full half the expence, and nearly half the distance, of the upper grand section was made within 5 years of the date of the law.

The foregoing is a simple statement of facts, in evidence of which any proof can be brought that can be desired; and being facts they shew that the Company have fairly and honestly complied with the law, by making all the navigation required of them greatly within the limits of their law; and the balance yet remaining for the entire completion of their work, they intend to prosecute as fast as required by law. They have no desire to protract the time of its final completion a single day longer than they are met by a canal from the Susquehanna to the Lehigh, as contemplated, for unless that work is done, there would be no object to spend half a million of dollars, in a perfect wilderness, sooner than required by law. But they do not hesitate to acknowledge that the communication from Mauch Chunk to the Susquehanna river and North Branch canal, is a link, as important to finish, as any one in Pennsylvania: as down this the bituminous coal of the West Branch, and the anthracite coal of Wyoming (by rail road to the Lehigh) and the produce of both Branches would find an outlet to Philadelphia and New York, at a less cost of transportation than any out-let in the power of man to make.

Answer to second charge:—that we have abused our charter, &c. They assert we charge a toll downwards, which the law intends should be for *both* downwards and upwards.

The words of the law are in the 15th section of act of 1818, "it shall be lawful for the said Josiah White, George E. Haato, and Erskine Hazard, their heirs and assigns, to charge and receive, for the passage up and down through every such lock or other device, as soon as it shall have been completed and the license for it obtained as aforesaid, for their own proper use and benefit, a toll not exceeding 8 cents per ton per lock or other device of 6 feet fall or lift," &c.

It will be recollected that the first section of this law provided only for a descending navigation, for which *only* descending tolls were granted, to wit: One cent a mile for all craft passing *down* the lower grand section, and 3 cents a mile for all passing *down* the upper grand section.

Section 1st provides, that *no toll* shall be demanded on any boat, vessel, or craft *going up* said river, unless the same is converted into complete slack-water, as provided by the act. Section 12 provides that the Company may demand and receive, of and from all

persons having the charge of boats, vessels, craft and rafts *passing down the said river*, such tolls, &c. When, therefore, the *descending* navigation was made according to law, the Company was authorized to charge toll *up as well as toll down*, or using the words of the law "up and down."

This law was passed in 1818, at a period when no practical lock navigation had been made in Pennsylvania, except about two miles at York Haven. The York Haven law, the Schuylkill navigation company and Union Canal, including those which the Union Canal absorbed, were the only lock navigation laws then extant in this state, and the wording of the Lehigh law was copied from them where they applied. The Schuylkill law of March, 1815, section 16 says, the Company "may demand and receive from any person having charge of boats passing through any lock erected on said river or canal, $12\frac{1}{2}$ cents at each lock below the borough of Reading, and *eight cents above that borough* upon each and every *ton of the ascertained burthen* of such vessel."

Would any person suppose the law intended that the Schuylkill company should charge 8 cents a ton only from Reading to Pottsville, a distance of about 40 miles? for so it may be construed; but that this was not the intention of the Legislature all must admit.

When the Lehigh Company applied for their law, they copied from this section the *eight cents*, intending to put the toll on the Lehigh the minimum of that on the Schuylkill; and when the Lehigh Company got their charter in February, 1822, they gave up two-thirds of the 8 cents on locks, reserving only one-third of the minimum of Schuylkill toll.

It will be recollected that even at this time (Feb. 1822) there was no ascending lock navigation, except the 2 miles at York Haven, in Pennsylvania, and the toll yielded was at a great sacrifice; but if it meant but half of this third each way, the wildness of such a proposition on our part would have prevented the Legislative grant, as we should have been considered insane! For this would be but about $1\frac{1}{2}$ cents a ton a mile as a maximum toll, which is but half of the maximum toll on the State Canal at this present period of rivalry and extended experience, and but half of the maximum toll allowed to the Beaver Meadow Rail Road and Coal company, and other Companies of recent origin; and about one-sixth of the minimum toll allowed on the Schuylkill. It therefore was not so intended, and was not by us so understood, neither does it necessarily read so. The company have reduced their toll so low that no instance, it is believed, can be adduced, that any single trip of a boat up and down has paid equal to the maximum toll allowed by law on her full tonnage one way.

Answer to third charge:—there is no color of authority for charging toll on empty boats.

I answer this charge by stating, that when our law of 1818 passed, there had been no practical lock navigation demonstrated in Pennsylvania (except the 2 miles on the Susquehanna at York Haven, before mentioned,) it was not at that time a settled question, whether *empty* boats should not pay the same as having their full load or tonnage on board—empty boats taking as much *more* water at

each lock as their full tonnage would amount to; and from the doubts entertained at that time whether the Union Canal would have an ample supply of water, it was believed that our greatest difficulty in our canal improvements, would be a want of water, and as this was the main difficult thing, it was specially guarded by all the laws incorporating the Delaware and Schuylkill, Schuylkill and Susquehanna, Union Canal and the Schuylkill Navigation company, and a similar provision for authorising a charge on the full tonnage of all boats passing on those canals, was copied in succession into the acts as they severally passed, from the oldest to the youngest company, and from them into our law of March, 1818. The act of March, 1815, incorporating the Schuylkill Navigation company, section 17, is in these words: "That in order to ascertain the tonnage of boats using and passing the said navigation, each of the parties are to appoint one skillful person to ascertain the size of said ark, and the tonnage said boat is *capable of carrying*, and to mark the said tonnage, so ascertained, in figures upon the head and stern of said boat in colors mixed with oil or other durable matter; and that the said boat or vessel *so measured and marked*, shall be *permitted to pass* through the said canal, &c. *for the price per ton for which the number of tons so marked on her shall amount to*, agreeably to the rates fixed in the manner aforesaid." [Those rates were 12 cents a ton a lock below Reading, and 8 cents a ton a lock above Reading.]

The 7th section of the Lehigh law of March, 1818, contains essentially the same provision, charging on the tonnage the full capacity of the boat, as in the Schuylkill law above quoted. But notwithstanding this provision, the Lehigh Company have never availed themselves of this authority, but in this matter have been governed like other corporations, and similar to the provisions for empty boats on the State Canals, to wit: a charge of *three cents* a lock for the passage of each empty boat. This was necessary to prevent a waste of water; for, as all those canals are public highways, and all who comply with the rules can pass up or down a lock, and thus empty boats could pass up and down with impunity, and consequently to the great waste of water, and of course public loss. This is no hardship, for almost all the tolls are under the maximum, including this charge.

I have no doubt but my readers will agree with me, that the charge for empty boats is in accordance with law, and custom also, and that there is no hardship in it.

Answer to fourth charge:—That the Company maintains a monopoly of business on the river by charging exorbitant tolls.

To this charge I reply, that taking all the leading articles of transportation on the Lehigh, the tolls charged are as low per ton per mile as the tolls on the State, the Union and the Schuylkill canals; and the only tolls of any consequence that we are higher in, is on anthracite coal. This is the pith of our sin; for in all the public meetings and conventions, ostensibly for public protection against our exorbitant tolls, as they please to call them, they only single out one *item*, and this is *anthracite* coal; and speculators who have bought coal lands for from 25 cents to 1 dollar per acre,

if they could ruin us would raise their land to an immense value; and hence the strife.

It will be recollected that coal land speculators bought their land *with the knowledge of our laws*; for had the Lehigh been improved as it is for boats of 150 tons burden, and its passage free, then 25 cent per acre land would be cheap at \$1 00 per acre; and if these speculators can break us down, these coal lands will be thus advanced. But suppose this was done, it would be no public gain; it would only be a transfer of value of one property to another. The value of the Mauch Chunk mines would be transferred to Beaver Meadow or Pissmire hill mines, and the public as a whole would be no wealthier, but on the contrary, poorer; for as Providence has placed these mines 15 miles further from market than the Mauch Chunk mines, the depreciation would be at least the cost of transportation on that distance.

But as to the equity of the thing; I ask who has the best claim on public support.—Those who have spent, including interest, exceeding the large sum of \$2,000,000, to make the Lehigh navigable, and thus given value to those coal lands at Mauch Chunk? Or those who have spent nothing, as is the case of the Beaver Meadow and Pissmire hill people?

The Lehigh canal has been completed for $3\frac{1}{2}$ years, and all the transportation on it, except coal, for the past year, has paid them in tolls but five thousand four hundred and seventeen dollars—which is a less sum than pays their superintendents and lock tenders, independent of repairs, &c. We admit the toll on Anthracite coal on Lehigh is something higher than our rival neighbour Schuylkill, but this is indispensable, as we have no general trade, nor expected any, as our canal terminates in a complete barren wilderness, and we now have, nor ever had any prospect of remuneration for our vast expenditures, except from anthracite coal, of which we have enough, beginning at the end of the mountain at Mauch Chunk and running back 8 or 10 miles, to supply the whole of North America for centuries at least; and we believe of every variety of the Anthracite species.

Our charge of toll on anthracite coal for 46 miles is	\$1 03
The cost of transportation on Lehigh is $\frac{3}{4}$ cent a ton a mile	
owing to our boats carrying 140 to 150 tons	34 $\frac{1}{2}$

	Total	\$1 37 $\frac{1}{2}$
Toll on Schuylkill 108 miles is	\$1 00	
Minimum freight	1 50	
	2 50	
46 miles on Schuylkill at this price is		\$1 06 $\frac{1}{2}$
		31

*The Mauch Chunk coal lands were worth as little as Beaver Meadow and Pissmire hill coal lands before this expenditure of the Lehigh company. A twenty years lease was obtained by the present Lehigh company on about 10,000 acres of land adjoining Mauch Chunk, and containing the coal lands, for the payment of but *one* ear of Indian corn per year.

Making the toll and transportation on Lehigh *thirty-one cents* a ton more than a similar distance on Schuylkill. Thus making 31 cents a ton the cause of all the complaints! The maximum toll we are authorised to charge is say 150 cents; we have abated from this 47 cents, which we believe is as much as we should be justified to our stockholders in doing, who think they are entitled to some preference in coal, as that may be called the only article which presented the inducement for making the navigation. But if they had a general trade like Schuylkill, by a communication by canal to Susquehanna as has been long in contemplation, they then could afford to reduce the tolls on anthracite coal, and yield up the advantage of thirty-one cents. But at these prices the hardship has thus far been on the side of the Lehigh company and not on the side of the speculative interest mentioned. For the market has for several years been fully supplied with coal, and dividing all the coal the company has sent down the Lehigh since their decending navigation was completed, (none other has gone down except as samples) into the interest accrued on the whole cost of our navigation, makes the sum of \$1.71 a ton chargeable on our coal as interest, or toll, whereas the toll charged by our neighbours on coal was but 103 cents, making the Lehigh company's toll cost them 67 cents more than they charge the complainants.

But these complaints are felt as especially vexatious to the Lehigh company, for while they are giving the complainants 67 cents the advantage of themselves, they have a law for a Rail Road and Coal Company from their mines to the Lehigh and down the Lehigh to its mouth, with the same privileges granted to the Lehigh company, which they say will be a better improvement than our canal, but instead of complying with their law like the Lehigh company, and thus redeem their pledge, for which they obtained their public grant, they spend no money, but lay still and cry out against us because we don't sacrifice still more for them. With the law and our charge of toll as it has been, we learn that the owner of the Beaver Meadow lands, containing about 700 to 800 acres, has sold it to the Rail Road company for a profit of \$95,000, and perhaps if they could get the 31 cents off of our toll, the present owners may sell it and even double that great sum. But will the legislature not pause, on the understanding of these facts, and at least permit the parties to prove the efficacy of their several plans, without the persecution of either party? I have full faith in the integrity of the legislature, that they will.

It is only necessary for me further to add, that we verily believe that our company have transcended no authority clearly expressed in the law; that they have greatly anticipated the time allowed by law for the prosecution of their works; that they have made the ascending navigation manyfold more capacious and effective than required by law; and that in no item (the circumstances considered) can they be charged with exorbitant tolls. But if the legislature think otherwise (which we don't believe they will), or that the state has granted to the Lehigh company too valuable privileges, to be separated from state property, the Lehigh company are now

consenting, in confirmation of their offer made last session, to convey back to the state all their navigation, on the terms on which the Lehigh company now hold it, to wit: Its entire cost and interest on the same to the time of sale. That is, the same cost which is charged to the navigation account in the company's books, conditioned only that the toll on coal shall never exceed the present rate, as now charged by the state for mineral coal, and if the toll on mineral coal in the state canals are lessened a similar reduction shall take place from Mauch Chunk to market, and to this purpose the subscriber has with him the copy, under seal, of the resolution of the stockholders, at their last general meeting, to be used in case of need.

All of which is respectfully submitted,

By your friend and fellow citizen,

JOSIAH WHITE.

NOTE 1. In one instance, so great was the difficulty of raising funds, that E. Hazard and myself gave \$5,000 to obtain a subscription of \$50,000.

NOTE 2. In proof of the lenient course pursued by this company, at Mauch Chunk, I am able to state, that \$1,500,000 was disbursed in that part of the country in which their works are situated without a *single law suit*.